IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1044 OF 1993.

Shantilal Khushaldas & Co.
and another. ... Petitioners.

V/s.

The State of Maharashtra & ors. ... Respondents.

Mr.Sanatan Panigrahy i/b. M & M. Legal Venture
for the petitionrers.

Ms.Madhubala Kajle, A.G.P. for the State.

CORAM : V.C.DAGA AND J.P. DEVADHAR, JJ.

DATED : 16th September 2005.

P.C. :

. Heard learned Counsel appearing for the petitioner and the learned A.G.P. for the State.

2. Both, learned Counsel for the petitioner as well as learned A.G.P. for the State, fairly stated that a very recent judgment of the Supreme Court in the case of **Godfrey Phillips India Limited v. State of U.P.** reported in 2005 (1) SCALE 465 will squarely apply to the present matter and the same is against the revenue.

3. Under these circumstances, rule is made absolute in this petition in terms of prayer clause (a) with no order as to costs.

4. It is needless to mention that pursuant to the interim order of this Court, if the petitioners have furnished bank guarantee, the said bank guarantee shall be returned to the petitioners subject to verification that the petitioners hereinabove have not collected any amount towards luxury tax from the customers after obtaining interim orders from this Court. If it is found that amount of luxury tax has been collected by the petitioner, then in that event, it would be open for the State Government to encash the bank guarantee to the extent of such collection made by the petitioner. In that event, all this exercise shall be completed by the State Government within 8 weeks from the date of receipt of copy of this order.

5. Parties to act on an authenticated copy of this order.

(J.P. DEVADHAR,J.) **(V.C. DAGA,J.)**